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when providing services for SBA, from any field office (see § 101.103). You may also use forms which you have prepared yourself, or have obtained from another source, if those forms are identical in every respect to the forms approved by OMB for the same purpose.

(b) Any member of the public who has reason to believe any SBA office or agent is in violation of the Public Protection Clause of the Paperwork Reduction Act (44 U.S.C. 3512 and see 5 CFR 1320.6) should notify SBA. Direct such comments to the Director, Office of Business Operations at 409 3rd Street, SW., Washington, DC 20416.

[61 FR 2394, Jan. 26, 1996, as amended at 72 FR 50038, Aug. 30, 2007]

### **§ 101.108 Has SBA waived any of the public participation exemptions of the Administrative Procedure Act?**

Yes. Despite these exemptions, SBA will follow the public participation requirements of the Administrative Procedure Act, 5 U.S.C. 553, in rulemakings relating to public property, loans, grants, benefits, or contracts.

### **§ 101.109 Do SBA regulations include the section headings?**

Yes. All SBA regulations must be interpreted as including the section headings.

## **Subpart B—Employment of Private Counsel**

### **§ 101.200 When does SBA hire private counsel?**

(a) *Business loans.* SBA may hire private counsel to represent it in regard to business loans when the volume of activity in an area is not sufficient to require a full-time SBA employee, or the area is too remote for economical use of a full-time SBA employee.

(b) *Disaster loans.* SBA may hire private counsel in regard to disaster loans when the disaster presents an emergency and a volume of activity that cannot be promptly and economically serviced by available SBA employees.

### **§ 101.201 What are the minimum terms of private counsel's employment?**

(a) Private counsel must perform all requested work in compliance with

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SBA's regulations, policies, and instructions, and take such action as is legally required under the Small Business Act, the Small Business Investment Act, and other laws applicable to SBA.

(b) Private counsel must adhere to the highest standards of professional conduct and maintain confidentiality appropriate to the attorney-client relationship.

(c) Private counsel acts under the supervision of the SBA General Counsel (and designees).

(d) Private counsel usually is compensated at an hourly rate as approved by SBA. Contingency fee agreements may be used if approved by the General Counsel.

(e) Either party may terminate the employment upon written notice.

## **Subpart C—Inspector General**

### **§ 101.300 What is the Inspector General's authority to conduct audits, investigations, and inspections?**

The Inspector General Act of 1978, as amended (5 U.S.C. App. 3) authorizes SBA's Inspector General to provide policy direction for, and to conduct, supervise, and coordinate such audits, investigations, and inspections relating to the programs and operations of SBA as appears necessary or desirable.

### **§ 101.301 Who should receive information or allegations of waste, fraud, and abuse?**

The Office of Inspector General should receive all information or allegations of waste, fraud, or abuse regarding SBA programs and operations.

### **§ 101.302 What is the scope of the Inspector General's authority?**

To obtain the necessary information and evidence, the Inspector General (and designees) have the right to:

(a) Have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to SBA and relating to SBA's programs and operations;

(b) Require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence;

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(c) Administer oaths and affirmations or take affidavits; and

(d) Request information or assistance from any Federal, state, or local government agency or unit.

### **§ 101.303 How are Inspector General subpoenas served?**

(a) Service of subpoenas may be effected by any of the following means—

(1) If by mail, a copy of the subpoena must be addressed to the person, partnership, corporation, or unincorporated association to be served at a residence or usual dwelling place, or a principal office or place of business, and mailed first class by registered or certified mail (postage prepaid, return receipt requested), or by a commercial or U.S. Postal Service overnight or express delivery service.

(2) If by personal delivery, a copy of the subpoena must be delivered to the person to be served, or to a member of the partnership to be served, or to an executive officer or a director of the corporation or unincorporated association to be served, or to a person authorized by appointment or by law to receive process for the person or entity named in the subpoena.

(3) If by delivery to an address, a copy of the subpoena must be left at the principal office or place of business of the person, partnership, corporation, or unincorporated association to be served, or at the residence or usual dwelling place of the person, member of the partnership, or officer or director of the corporation or unincorporated association to be served, with someone of suitable age and discretion.

(b) Proof of service—

(1) When service is by registered, certified, overnight, or express mail, it is complete upon delivery of the document by the Postal Service or commercial service.

(2) The return Postal Service receipt for a document that was registered or certified and mailed, the signed receipt for a document delivered by an overnight or express delivery service, or the Return of Service completed by the individual serving the subpoena by personal delivery shall be proof of service.

## **Subpart D—Intergovernmental Partnership**

### **§ 101.400 What is the purpose of this subpart?**

(a) This subpart implements section 401 of the Intergovernmental Cooperation Act (31 U.S.C. 6506 *et seq.*) which promotes intergovernmental partnership and strengthens Federalism by relying on state processes and state, area-wide, regional, and local coordination for the review of proposed Federal financial assistance and direct Federal development.

(b) While guiding SBA's management, this subpart does not create any right or benefit enforceable at law.

### **§ 101.401 What programs and activities of SBA are subject to this subpart?**

SBA publishes in the FEDERAL REGISTER a list of programs and activities subject to this subpart.

### **§ 101.402 What procedures apply to the selection of SBA programs and activities?**

(a) A state may—

(1) Select any program or activity published in the FEDERAL REGISTER under § 101.401 for intergovernmental review (providing it consults with local elected officials before doing so) and then notify the Administrator of the programs and activities selected; and

(2) Notify the Administrator of changes in its selections at any time. For each change, the state submits to the Administrator an assurance that it consulted with local elected officials regarding the change.

(b) SBA may establish deadlines by which states must inform the Administrator of changes in their program selections.

(c) After receiving notice of a state's selections, the Administrator uses a state's process as soon as feasible depending on individual programs and activities.

(d) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.